

ORDINANCE NO. 2017 -

**BOROUGH OF PHOENIXVILLE
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF PHOENIXVILLE ADOPTING THE 2009 EDITION OF THE INTERNATIONAL FIRE CODE, REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE BOROUGH OF PHOENIXVILLE; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ORDINANCE NO. 2211 OF THE BOROUGH OF PHOENIXVILLE AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the Borough Council of the Borough of Phoenixville finds that it is necessary to revise Chapter 7 “Fire Prevention and Fire Protection” Part 2 “Fire Prevention Regulations” and to replace it in its entirety.

WHEREAS, Borough Council has determined that it is appropriate and in the best interests of the Borough of Phoenixville to repeal the existing Chapter 7 “Fire Prevention and Fire Protection” Part 2 “Fire Prevention Regulations” and to replace it in its entirety.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Borough Council of the Borough of Phoenixville, Chester County, and it is hereby **ENACTED** and **ORDAINED** by the authority of same as follows:

Section 1:

§ 7-201 Adoption of the Provisions in the International Fire Code.

- A. The Borough of Phoenixville hereby adopts, for the purpose of establishing rules and regulations for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises in the Borough of Phoenixville, including administration, enforcement and penalties. The following provisions of the International Fire Code, 2009 Edition, or any subsequent edition(s), if any, save and except such portions as are hereinafter deleted, modified, or amended of which three (3) copies have been and are now filed in the office of the Code Enforcement Official and the same is hereby adopted and incorporated by reference as fully as if set out at length herein:
- B. The following sections are hereby revised:
 - (1) Section 101.1, Title; insert “Borough of Phoenixville, Chester County,

Pennsylvania” in place of the bracketed phrase [Name of Jurisdiction].

- (2) Section 109.3, Violations penalties, insert “Summary offense” in place of the bracketed phrase [specify offense] and insert “\$1,000.00 One Thousand dollars” in place of bracketed phrase [amount] and insert “(30) thirty days” in place of the bracketed phrase [number of days].

C. Definitions.

For the purpose of the Part, the following terms shall have the meaning respectively ascribed to them in this Section unless from the particular context it clearly appears that some other meaning is intended. Other than the words in this Section, those words which are defined in the International Fire Code, 2009 Edition, shall have the same definitions as that employed in the International Fire Code, 2009 Edition.

EXISTING – Buildings, facilities, or conditions that are already in existence, constructed or officially authorized prior to the adoption of this code.

NEW – Buildings, renovations, additions, facilities or conditions not in existence prior to the adoption of this code. Such buildings, facilities or conditions shall be regulated by the Pennsylvania Uniform Construction Code, land development, or new subdivisions under the Municipalities Planning Code.

D. Chapter 33. Explosives and Fireworks is hereby amended by modifying and amending portions thereof as hereinafter set forth:

(1) Statement of Purpose.

This part has as its purpose the protection of the health, safety and welfare of the general public through limiting the use of fireworks. Fireworks contain explosives, which can damage property and endanger human life when misused, or used under conditions which create hazards which would not exist for the presence of such conditions. This part will allow for outdoor display of fireworks to be put on by professional competent pyrotechnicians in a safe manner.

(2) Definitions.

- a. Words employed herein which are defined in the International Fire Code, 2009 Edition shall have the same definition as that employed in the International Fire Code, 2009 Edition.
- b. Display Property. The lot, parcel or tract of real estate on which a permitted outdoor display of fireworks is to be conducted.

(3) Incorporation of International Fire Code.

Chapter 33, Explosives and Fireworks of the International Fire Code, 2009 Edition, shall constitute reasonable rules and regulations for displays of consumer fireworks and “display fireworks”, as set forth in the Act of

November 30, 2004, P.L. 1598, No. 204 §5, Title 35 P.S. Health and Safety, Chapter 13A entitled Fireworks and Explosives in Section §1275.2 incorporated into this ordinance by reference. Supervised public displays permitted; permits, and the provisions thereof are hereby incorporated by reference as if set forth here at length. In the event of any irreconcilable conflict between the provisions of the International Fire Code and this Section, those provisions which provide greater safety and protection to person and property of which is more restrictive on the conduct of outdoor display of fireworks shall apply.

(4) Delegation of Authority.

The Borough Council of Phoenixville Borough hereby authorizes the Phoenixville Borough Fire Code Official to act as its duly authorized agent to enforce the requirements of Title 35 P.S. Health and Safety Chapter 13A, Fireworks and Explosives, §1275.2, Supervised public displays permitted; permits, to grant permission and issue permits for outdoor displays of fireworks provided that the permit applicant fully meets the requirements of the International Fire Code, including without limitation the requirements of Chapter 33 Explosives and Fireworks and, including but not limited to, Section 3308, Fireworks Displays, thereof, and the additional rules and regulations set forth in this Section.

(5) Permit Required for Displays.

It shall be unlawful, and in violation of this Section, for any person or entity to conduct an outdoor display of fireworks within the limits of the Borough of Phoenixville unless a permit therefore has first been issued by the Phoenixville Borough Fire Code Official.

(6) Permit Applications.

All applications for a permit for an outdoor display of fireworks shall be made in writing by use of a Phoenixville Borough application form, and submitted to the Phoenixville Borough Fire Code Official with all required information, documentation and plans not later than forty-five (45) days prior to the scheduled display. No permit shall be issued for any late application.

(7) Permittee to be Owner of Display Property.

The permittee (operator) shall be the record owner of the display property, other than displays conducted on Borough property, with the permission of the Borough.

(8) Structures Disallowed in Display Site.

The permittee shall ensure that there are no dwellings, buildings, or any other structures (including tents) located within the display site, whether or not the

dwelling, building or structure will be unoccupied during the display, and whether or not the dwelling, building or other structure provides protection through substantial noncombustible or fire-resistant construction for the occupants. No permit shall be issued for any outdoor display of fireworks where plans submitted to the Phoenixville Borough Fire Code Official evidence at the sole discretion of the Borough Fire Code Official, that there are or will be dwellings, buildings, or any other structures (including tents) located within the display site.

(9) Location of Display Site on the Display Property.

The display site shall be situated on the display property at such location as is the greatest distance from the nearest dwelling, building structure (including tents), or public street while still meeting the International Fire Code clearance and separation distance requirements.

(10) Revocation of permit; Cancellation or Discontinuance of Display.

The permit for any outdoor display of fireworks may be immediately revoked and the display immediately cancelled or discontinued at any time deemed necessary the Phoenixville Borough Fire Code Official or any authorized representative of the Phoenixville Borough Fire Company at their sole and absolute discretion as a result of any noncompliance with any legal requirements, including without limitation the requirement of this Section, or due to weather conditions such as drought, extremely low humidity, or wind factors. Any permitted outdoor display of fireworks shall be cancelled if wind gusts exceed 25 mph as measured immediately prior to the commencement of display, and shall be discontinued if wind gusts exceed 25 mph at any time prior to the end of the display. The display may also be ordered discontinued immediately whenever in the sole and absolute discretion of the Phoenixville Borough Fire Code Official, an authorized representative of a Phoenixville Borough Fire Company, or the operator determines that a hazardous condition exists, and shall not resume until such time as the hazardous condition is corrected to the sole and absolute satisfaction of the Phoenixville Borough Fire Code Official or authorized Fire Company representative. The permit shall be immediately revoked and the display shall be discontinued in the event of accidental ignition of any form of combustible or flammable materials as a result of falling debris from the display.

(11) Fire Company Presence at, and call for Emergency Medical Services to Display Property.

The permittee shall make arrangements with a Phoenixville Borough Fire Company to ensure the presence at the display property a Phoenixville Borough fire pumper and/or other firefighting equipment as determined by such fire company, and a minimum of three (3) firefighters, for a period beginning thirty (30) minutes prior to the display and ending thirty (30)

minutes after the display is concluded. All costs related to the provision of fire personnel and apparatus, and calls for emergency medical services and apparatus, shall be paid by the permittee in an amount determined by Phoenixville Borough.

(12) Traffic Control Arrangements with Phoenixville Borough Police Department

Not less than ten (10) business days prior to conducting the display, the permittee shall make arrangements acceptable to the Phoenixville Borough Police Department for traffic control. Traffic control shall be conducted by Phoenixville Borough Police officers. Traffic control measures shall be sufficient to prevent motorists, whether or not attending the display, from parking, stopping or standing motor vehicles within the right-of-way or shoulder of that portion of any public street abutting the display property, or that portion of any public street in sufficiently close proximity to the display property to be affected by the traffic to be generated thereby as determined by the Phoenixville Borough Police Department. The permittee shall submit to the Phoenixville Police Department for its review and approval its traffic control plans. Such plans shall include provisions for handling ingress and egress of motor vehicles to and from the display property, interior circulation of vehicles within the display property, and demonstrate adequate parking on the display property. In the event that the permittee anticipates the necessity for additional parking facilities, other than those available on the display property, the permittee may contract with a nearby property owner or owners for overflow parking, provided that either (1) shuttle service from the overflow parking site to the display property is provided; or (b) safe pedestrian pathways are available from the overflow parking to the display property. Such plans shall be sufficiently detailed so as to permit meaningful review by the Phoenixville Police Department. All costs related to the provisions of police officers and police vehicles shall be paid by the permittee in an amount determined by Phoenixville Borough. The permittee shall not conduct the display unless such traffic control measures and plans have been approved in writing by the Phoenixville Police Department.

(13) Enforcement of Requirements.

The Phoenixville Borough Fire Code Official and Phoenixville Borough Police Officers are authorized to enforce all legal requirements relating to outdoor displays of fireworks, including the requirements of this Section or other Borough ordinance and/or state law, and, in addition to criminal sanctions or civil remedies, he/she may revoke any permit and order the cancellation and/or discontinuance of a display upon any failure of refusal of the permittee to comply with such legal requirements, including without limitation this Ordinance, other Borough Ordinances and/or state law, or upon any failure or refusal to comply with the orders and directives of the Phoenixville Borough Fire Code Official, a Phoenixville Borough Police Officer, or an authorized representative of a Phoenixville Borough Fire Company.

(14) Property Owners to be Notified.

The permittee shall notify in writing the owners of all real estate located within 2,000 feet of all boundaries of the display property. The notice shall be mailed by USPS certified mail, return receipt requested, to such owners not later than ten (10) days prior to the date on which the display is to take place, and proof of such mailing shall be delivered to the Phoenixville Borough Fire Code Official not later than three (3) days prior to the date on which the display is to take place. The notice shall contain not less than the following information: (1) the name, address and phone number of the permittee and of its contract person responsible for the display; (2) the name, address and phone number of the operator and of its contact person directly responsible for conducting the display; (3) the date, time and location of the display; and (4) a general statement describing the display. The permittee shall not conduct the display unless such proof of mailing has been delivered to the Phoenixville Borough Fire Code Official.

(15) Removal of Debris and Trash from Display Area.

The permittee shall remove all combustible debris and trash from the display areas prior to the commencement of the display.

(16) Inspection and Approval of Discharge Site Set Up.

After the discharge site has been completely set up, and prior to the commencement of the display, the permittee shall cause the discharge site to be inspected and approved by an authorized representative of a Phoenixville Borough Fire Company. The permittee shall not conduct the display unless such approval has been obtained.

(17) Removal of Display Debris.

In the event that any property owner or occupant notifies the Borough, the permittee, or the operator that debris from the display has fallen on such property, the permittee shall remove such debris from such property within twenty-four (24) hours notice to the permittee or the operator from the owner, occupant, of the Borough.

§ 7-202

State Laws and Regulations.

- A. In all matters that are regulated by the laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth promulgated by authority of law, such laws or regulation, as the case may be, shall control where requirements thereof are more restrictive than the provisions of this International Fire Code.

- B. That Ordinance No. 2211 of the Borough of Phoenixville entitled Fire Prevention and Fire Protection, as amended, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.
- C. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Borough Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses and phrases be declared unconstitutional.
- D. That nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 4 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.
- E. That the Fire Code Official is hereby ordered and directed to cause a summary of this ordinance to be published one time in a newspaper of general circulation and make available its full content of the Borough of Phoenixville.
- F. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

§ 7-203. Enforcement of Fire Code.

- A. Fire Code Official. The Fire Code shall be enforced by the Fire Code Official for purposes of the administration and enforcement of the International Fire Code.
- B. Periodic Inspections of Commercial, Industrial and Multi-residential Buildings. The Fire Code Official is authorized to inspect existing commercial, industrial and/or multifamily residential buildings, structures and premises periodically to determine compliance with the Fire Code. A Fire Code Official's belief that a violation may exist is not a precondition to any such inspection.

§7-204. Fees and Charges.

Council may, from time to time, by written Resolution, adopt and amend its Schedule of Fees and charges for inspections, compliance work, application processing, permits, and other work of the Fire Code official related to the enforcement of the Fire Code.

§7-205. Future Editions of Code.

It is the intent of Phoenixville Borough Council to adopt the 2009 edition of the International Fire Code. However, in the event that the State of Pennsylvania prepares and adopts a later version as amended and modified by the Pennsylvania Uniform Construction

Code (Act 45), 34 Pennsylvania Code Part XIV, that most recent tri-annual edition of the Fire Code that is in equivalent cycle with the adopted UCC will become the most recent edition of the Fire Code and shall become part of the Code of the Borough of Phoenixville, as amended, without the need for the adoption of any future amending ordinance.

§7-206. Construal of Provisions.

That nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 207 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 2: Officer Authorization. The appropriate officers of the Borough are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

Section 3: Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, parts, or sections hereof. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, part or section thereof not been included herein.

Section 4: Repealer. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

Section 5: Effective Date. This Ordinance shall become effective upon enactment as provided by law.

PASSED by Borough Council this 11th Day of July, 2017.

By: _____
James C. Kovaleski
President, Borough Council

APPROVED by the Mayor, this 11th Day of July, 2017.

By: _____
Michael J. Speck
Mayor

ENACTED this 11th Day of July, 2017.

By: _____
E. Jean Krack
Borough Manager/Secretary

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 11th Day of July, 2017.

By: _____
E. Jean Krack
Borough Manager/Secretary